

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LDG.) NO.2552 OF 2005

Smt.Pravina A.Rathod.

... Petitioner

Versus.

The State of Maharashtra.

... Respondents.

Ms.Usha Purohit for the Petitioner.

Shri G.W.Mattos, A.G.P. for the Respondents.

**CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.**

DATED : 28th FEBRUARY, 2006.

P.C.:

1. Heard Ms.Purohit in support of this petition.

Shri Mattos appears for the Respondents. The Petitioner is staying in the transit accommodation which was made available to her uncle Shri Ama Sata Makwana. He was a tenant of a tenement in the building situated at Mauji Rathod Road, Mumbai-9. That building was demolished sometime in the year 1982 and Shri Makwana along with his family members and occupants in the room was required to be shifted to the transit accommodation. It is the case of the Petitioner that she is his niece and she is one who is now staying in the transit accommodation.

2. The petition is filed for getting a permanent

accommodation in a building to be constructed by the Respondent-Housing Board. A reply has been filed

wherein it has been stated that there is no possibility of this building coming up, since the land on which the building stood earlier has been reserved for other purpose. That being so, it is the responsibility of the Respondent-Board to provide regular accommodation to the Petitioner.

3. The difficulty of the Petitioner, however, is that she must establish her relationship with the deceased Makwana. She claims to be his niece. The Respondents have asked her to produce proof of her being the heir of the deceased Makwana by their letter dated 1st August 2001. Shri Mattos appearing for the Respondents states that on the Petitioner producing the necessary document, she will be placed in the master list of such allottees whose buildings are not coming up. We therefore direct that on producing the certificate of heirship the Petitioner should be placed at the proper place on the basis of the eviction notice which was served on her uncle on 7th June 1982.

4. Ms.Purohit has submitted that the Petitioner be allotted an alternative tenement on the basis of document of indemnity. As such the Petitioner's turn is not coming up as of now and she has sufficient time to obtain a heirship certificate. That will also be in her own interest as well so that if there are any other claimants from the family of deceased Makwana, she will

be protected against the claim of any such person. The
Petitioner may obtain the necessary certificate at the
earliest and produce it before the authorities of the
Respondent and on the same being produced, she will be
placed at appropriate place in the master list and on
her turn coming, she will be allotted a regular
tenement.

5. Petition disposed of with the above
observations.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)